

REMARKS

Reconsideration of the outstanding rejections and objections is requested in light of the forgoing amendments and the following comments. Claims 29-46 and 48-50 are pending, with claims 29, 36, and 43 being the independent claims. No new matter is added by this Amendment.

Interview Summary

The undersigned would like to thank Examiner Miller for her time and attention during a telephone call on November 8, 2006. During the call, an inconsistency in the office action related to claims 49 and 50 was discussed, as well as the rejections under 35 U.S.C. 112. The Examiner verified that claims 49 and 50 are allowable. The term “non-human,” the subject of the 112 rejections, was also discussed. The Examiner stated she would consider the term “inanimate” rather than “non-human” as a proposed amendment to overcome the 112 rejections.

Allowable Subject Matter

The Applicant appreciates the Examiner’s indication of allowable subject matter in claims 29-35, and 43-50.

Claim Rejections under 35 U.S.C. § 112

Claims 36-42 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner asserts that the term “non-human” previously recited in claim 36 is not supported by the original specification. The Applicant respectfully disagrees with this assertion, but has amended claim 36 to expedite prosecution. The terms of a claim are not limited to the nomenclature used in the application as filed. M.P.E.P. 608.01(o). Here, the specification as originally filed discloses that the weight element 140 (shown, for example, in Figures 1) can be “metal, a weighted or weightable pocket or bladder, plastic,

rubber, wood, or an equivalent, or any other known or later developed material” (see specification page 9, par. [0038]). The Applicant submits that all of these possible weight elements are inanimate, non-human elements. Thus, the subject matter of a non-human weight was disclosed in the originally-filed application. To further prosecution, however, the Applicant has amended claim 36 to recite an “inanimate weight,” which was also disclosed in the originally-filed application. Accordingly, the Applicant requests that the rejection under 35 U.S.C. §112, first paragraph, be withdrawn.

Claims 36-42 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the application. Specifically, the Examiner asserts that in claim 36 it is not clear whether a non-human weight is coupled to the fabric portion. As stated above, claim 36 has been amended to recite an “inanimate weight coupled to the fabric portion” to expedite prosecution and without acquiescing to the rejection. For similar reasons as stated above, the Applicant respectfully submits that the term “inanimate weight” is not indefinite. Accordingly, the Applicant requests that the rejection of claims 36-42 under 35 U.S.C. §112, second paragraph be withdrawn.

Claim Rejections under 35 U.S.C. §§ 102 and 103

Claims 36-38, stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,433,637 to Graves (“Graves”). Claim 39 stands rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,467,555 to Terzain et al. (“Terzain”) or U.S. Patent Pub. No. 2001/0024294 to Ueno et al. (“Ueno”).

Independent Claim 36 and its Dependent Claims

Independent claim 36 recites “the fabric portion including an outer peripheral edge unconstrained by the frame member.” Graves fails to disclose or suggest such a recitation. Graves discloses a flotation device having an internal support 12 and an external flotation structure 14. Hook and loop fastener strips 18 A and 18B are coupled to corresponding surfaces of the support structure 12 and the flotation structure 14. The Examiner asserts that the fastener strips correspond to the fabric portion recited in claim

36. The Applicant respectfully disagrees with this assertion. Unlike the recitation of claim 36, the fastener strips 18A and 18B of Graves do not have a peripheral edge unconstrained by the frame member. Rather, the hook and loop fasteners of Graves are adhesively coupled to a surface such that an entire surface of the fastener is constrained by the surface on which it is coupled.

Further, claim 36 recites “the weight and the buoyancy member collectively configured to maintain the fabric portion in a substantially planar orientation when the fabric portion is submerged in water.” If the internal support structure 12 of Graves corresponds to the “weight” of claim 36 and the handle 22 of Graves corresponds to the “buoyancy member” of claim 36, as suggested by the Examiner, the internal support structure 12 and the handle 22 are not collectively configured to maintain the fastener 18B in a substantially planar orientation when the fastener 18B is submerged in water. In fact, the fasteners 18A and 18B are not submerged in water, rather they are disposed within an interior of the flotation device.

Accordingly, at least for these reasons, claim 36 is allowable. Based at least on their dependence upon claim 36, claims 37-42 are also allowable.

CONCLUSION

All of the stated grounds for rejection have been properly traversed or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. Applicant believes that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner has questions in connection with this application or believes that further personal communication would be helpful in the prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided below.


Prompt and favorable consideration of this Amendment is respectfully requested.

Dated: November 22, 2006

COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
The Bowen Building
875 15th Street, NW Suite 800
Washington, DC 20005-2221
Tel: (703) 456-8000
Fax: (202) 842-7899

305832 v1/RE

Respectfully submitted,
COOLEY GODWARD KRONISH LLP

By:  Christopher R. Hutter (Reg. No. 41,087)
Nancy A. Vashaw for:
Reg. No. 50,501